

Remarks

The Examiner required restriction under 35 U.S.C. §121 to one of fourteen inventions, designated I-XII. Applicant elects, without traverse, the claims of Group IV, claims 1 in part, 2,3,4 and 5 in part, 6, 9 in part, 10-12, 13 and 14 in part, and 15, drawn to a method of modulating an activity of a cell with an antagonist of IL-17C, wherein the antagonist comprises an antibody. The foregoing amendment to the claims cancels claims 1-20 and presents new claims 21 to 32, which are directed to this elected subject matter. New Claim 21 is supported by Claims 1 and 9 as filed, and by the specification at page 4, paragraph [0010]; in paragraph [0032] that bridges pages 10-11; and in paragraph [0088] on p. 29. Support for the phrase "naturally occurring" in new claim 21 is supported by the specification as filed, at least at: page 16, paragraph [0045]; page 36, paragraph [0115]; and page 42, paragraph [0115]. Support for renaming DCRS9 as IL-17RE is found in Table 2 on page 56. New Claim 25 is supported by Claim 9 as filed, and by the specification at page 9, paragraphs [0028] and [0029]. No new matter is added by this amendment.

The Examiner also required restriction to one specific sequence from SEQ ID NO:11, 12, 23 or 24. Applicant believes that this restriction requirement is rendered moot by reference in new Claim 21 to naturally occurring human IL-17C and IL-17RE (formerly known as DCRS9) proteins.


The Examiner also required restriction to one of 3 specific interstitial lung disorders recited in Claim 11. Applicant *provisionally* elects hypersensitivity pneumonitis with traverse. This traversal is based on the apparent inconsistency between this restriction requirement and the species election requirement set forth on pages 7 and 8 of the Office Action. The species election requirement requires election of one species from the five different diseases/conditions listed in Claims 1 and 9, which list includes interstitial lung disorder. Since the 3 interstitial lung disorders recited in Claim 11 are more closely related conditions than the 5 diseases/conditions in Claims 1 and 9, Applicant requests that the 3 interstitial lung disorders listed in Claim 11 be added to the species election requirement.

The Examiner also required election of a single clinical disease/condition recited in Claims 1 and 9, and election of a single cell type recited in Claims 2 and 10. Applicant hereby elects psoriasis as the species for prosecution on the merits, whether or not the Examiner adds the 3 interstitial lung disorders recited in Claim 11 to the species election requirement. Applicant notes that new claim 21 is a generic claim covering all clinical diseases/conditions listed in originally filed Claims 1-20 and in new Claims 21-32. With respect to the cell type species election, Applicant respectfully asserts that this requirement is rendered moot by the cancellation of Claims 2 and 10, and by the definition of the cell in Claim 1 as a cell that expresses a naturally occurring human IL-17RE protein.

Applicant expressly reserves the right to file divisional applications to the presently non-elected subject matter.

If the undersigned can be of any assistance to the Examiner in addressing issues to advance the application to allowance, please contact Applicant's attorney at the number set forth below.

Respectfully submitted,



Melodie W. Henderson
Reg. No. 37,848

Schering-Plough Corporation
Patent Department
Mail Stop K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, NJ 07033-0530

Phone: (908) 298-7482
Fax: (908) 298-5388